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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
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11 A.J.P. and A.M.P., minors by and
12 through their guardian ad litem Cynthia
13 Nunez, individually and as successor in
interest to Albert Perez, deceased; and
PATRICIA RUIZ, individually,

14 Plaintiffs,

15 v.

16 COUNTY OF SAN BERNARDINO;
17 and DOES 1-10, Inclusive,

18 Defendant.
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Case No. 5:22-CV-01291 SSS (SHKx)

*[Honorable Sunshine Suzanne Sykes,
Magistrate Judge, Shashi H.
Kewalramani]*

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Filed concurrently with:

- 1. Notice of Motion and Motion;*
- 2. Statement of Uncontroverted Facts;*
- 3. Declaration of Kayleigh Andersen;*
- 4. Declaration of Sergeant Gaytan;*
- 5. Declaration of Corporal McCarthy;*
- 6. Declaration of Corporal Olivas;*
- 7. Declaration of Corporal Pollick;*
- 8. Declaration of Deputy Moore;*
- 9. Declaration of Deputy Stone; and*
- 10. Declaration of Sergeant Scalise*

Date: April 19, 2024

Time: 2:00 p.m.

Crtrm.: Courtroom 2, 2nd Floor

Action Filed: 07/22/2022

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 Defendants COUNTY OF SAN BERNARDINO (“County”), CORY
3 MCCARTHY (“Corporal McCarthy”), ANDREW POLLICK (“Corporal Pollick”),
4 DAVID MOORE (“Deputy Moore”), and CRISTINA OLIVAS (“Corporal Olivas”)
5 (“Defendnat Deputies”) (collectively “Defendants”) motion for summary judgment
6 or, in the alternative, summary adjudication of issues came before the Court on regular
7 notice at the above-stated date and time. After consideration of the papers on file, and
8 after arguments of counsel, the Court concludes as follows:

9 1. The Court hereby **GRANTS** Defendants’ Motion for Summary
10 Judgment, in its entirety.

11 2. The Court hereby finds that Defendants have met their burden under
12 Federal Rule of Civil Procedure 56 of establishing that there are no genuine issues of
13 material fact pertaining to plaintiff’s operative claims.

14 3. The Court hereby finds and rules that Defendant Deputies are entitled to
15 judgment on plaintiffs’ first cause of action for Excessive Force under 42 U.S.C. §
16 1983 because there is no triable issue of fact;

17 4. The Court hereby finds and rules that Defendant Deputies are entitled to
18 judgment on plaintiffs’ second cause of action for Denial of Medical Care under 42
19 U.S.C. § 1983 because there is no triable issue of fact;

20 5. The Court hereby finds and rules that Defendant Deputies are entitled to
21 judgment on plaintiffs’ third cause of action for due process – interference with
22 familial relations under 42 U.S.C. § 1983 because there is no triable issue of fact;

23 6. The Court hereby finds and rules that Defendant Deputies are Entitled to
24 Qualified Immunity For Each of Plaintiffs’ Federal Claims;

25 7. The Court hereby finds and rules that Defendant County of San
26 Bernardino is entitled to judgment on plaintiffs’ fourth cause of action for *Monell*
27 Liability – inadequate training under 42 U.S.C. § 1983 because there is no triable
28 issue of fact;

1 8. The Court hereby finds and rules that Defendant County of San
2 Bernardino is entitled to judgment on plaintiffs' fifth cause of action for *Monell*
3 Liability – unconstitutional custom, practice, and policy under 42 U.S.C. § 1983
4 because there is no triable issue of fact;

5 9. The Court hereby finds and rules that Defendant Deputies are entitled to
6 judgment on plaintiffs' sixth cause of action for Battery because there is no triable
7 issue of fact;

8 10. The Court hereby finds and rules that Defendant Deputies are entitled to
9 judgment on plaintiffs' seventh cause of action for Negligence because there is no
10 triable issue of fact;

11 11. The Court hereby finds and rules that Defendant Deputies are entitled to
12 judgment on plaintiffs' eighth cause of action for Violation of the Bane Act because
13 there is no triable issue of fact;

14 12. The Court hereby finds and rules that Defendant County of San
15 Bernardino is entitled to judgment for each of plaintiffs' State Law Claims, as the
16 Defendant County of San Bernardino's liability hinges on the liability of Defendant
17 Deputies;

18 13. The Court hereby finds and rules that Defendant Deputies are entitled to
19 judgment on plaintiffs' claim for punitive damages because there is no evidence that
20 he acted with malice, oppression, or reckless disregard for Perez' rights during the
21 incident.

22 14. In light of the foregoing, the Court hereby finds and rules that Defendants
23 are entitled to summary judgment as to plaintiffs' Second Amended Complaint in its
24 entirety.

25 15. Accordingly, the Court hereby Orders, Adjudges, and Decrees that
26 **Judgment is entered in favor of Defendants on all of plaintiffs' claims in this**
27 **action**, and that plaintiffs shall recover nothing from Defendants.

28 IT IS SO ORDERED.

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2 Dated: _____

Hon. SUNSHINE S. SYKES
Judge, United States District Court

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5 Submitted By:

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14 SAN BERNARDINO; CORY
MCCARTHY, ANDREW POLLICK;
DAVID MOORE, and CRISTINA OLIVAS

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 S. Figueroa St, 15th Floor, Los Angeles, CA 90017-3012.

On March 1, 2024, I served true copies of the following document(s) described as **[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** on the interested parties in this action as follows:

LAW OFFICES OF DALE K. GALIPO

Dale K. Galipo, Esq.
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*ATTORNEYS FOR PLAINTIFFS, A.J.P.,
AND A.M.P.. ET AL.*

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 1, 2024, at Los Angeles, California.

Maria T. Castro

Maria T. Castro